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December 11, 2017

Ex Parte

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: WC Docket Nos. 10-90 & 07-135, CC Docket No. 01-92

Dear Ms. Dortch:

This *ex parte* letter responds to the August 15, 2017 reply comments filed by the Ad Hoc Telecommunications Users Committee ("Ad Hoc") in the above-numbered dockets ("Ad Hoc Reply Comments"). Ad Hoc makes a number of seemingly misinformed statements that require correction.

After noting Teliax, Inc. ("Teliax") is a wholesale provider of 8YY origination services for other local exchange carriers ("LECs") and I-VoIP providers, Ad Hoc claims Teliax "fails to disclose that the delivery of 8YY calls over its IP platform at those originating access rates is so lucrative that it *pays* those other CLECs and IP-providers to deliver the service to it – urging them to partner with Teliax to 'monetize' origination toll-free traffic."[1]

Ad Hoc's conclusion is wrong for several reasons, as discussed herein. Teliax does, indeed, provide wholesale 8YY origination service to other carriers and service provider partners and in some cases, may credit them with a portion of the access revenues billed and collected from those interexchange carriers ("IXCs") that offer 8YY services to subscribers (e.g., banks, reservation centers, and software service centers). But the story does not end there, as Ad Hoc would have the Commission believe.

Investment in the software, network and equipment needed to route, bill and interconnect with the PSTN (end offices, tandems and the like) is substantial. Calls may be originated and terminated in IP or TDM format and a carrier, such as Teliax, must have the necessary facilities to accept and transmit calls in both formats. Additionally a database query ("DBQ") is necessary for the call to be routed to the correct Carrier Identification Code ("CIC") that serves the IXC providing toll free service to its subscriber.[2] In order to facilitate this DBQ, the ILEC, CLEC or I-VoIP provider must

[1] Ad Hoc Reply Comments, at 7.

[2] For example, AT&T's ILEC affiliate's, BellSouth, interstate access tariff (BellSouth Tariff F.C.C. § 6.2.5) defines "Originating BellSouth SWA Toll Free Dialing Ten Digit Screening service" as a "Trunk Side BellSouth SWA service that is available to the customer via BellSouth SWA Toll Free Dialing Ten Digit Screening Service Trunk Groups. BellSouth SWA Toll Free Dialing Ten Digit Screening Service Trunk Groups, from the Telephone Company's SSP equipped end office or access tandem to the customer, will be provided in conjunction with BellSouth SWA FGD or BellSouth SWA TSBSA 3." These are not IP-based facilities, but rather, TDM-based. FGD is a trunk-side TDM connection. TSBSA 3 provides "trunk side access to Company end office switches with an associated uniform 101XXXX access code for the customer's use in originating and terminating communications."

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own, license or otherwise have access to software and facilities connecting with an 8YY Service Control Point ("SCP") in addition to their existing network. For many providers, their 8YY calling volumes are simply too small to justify an investment in TDM network components, much less owner-operator access to SOMOS' 8YY database. Thus, they choose to "buy," rather than "make" their own toll free call origination capability. Once they choose to outsource this capability, they then decide which technically qualified, wholesale provider best serves their customers' service and their business needs.

Also, since many IXCs challenge the application of access charges on 8YY originating traffic, even to the point where LECs must file collection lawsuits against IXCs with massive resources,[3] many CLECs (and I-VoIP providers) elect to purchase wholesale 8YY origination services from other CLECs, including Teliax. They often do this simply to outsource billing and collection problems that often require lawyers and other subject matter experts with FCC regulatory backgrounds. For many CLECs and I-VoIP providers, the availability of Teliax's (and others') wholesale 8YY origination services are the difference between recovering some compensation and providing services for free.

Teliax, having invested heavily in its toll-free origination network and software (Teliax is an 8YY SCP Owner/Operator which requires custom software development and necessary network facilities), is interested in maximizing those investments in the same manner that large carriers (e.g., Verizon or AT&T) try to increase returns on their investments. Teliax wants other carriers and I-VoIP providers to choose to use Teliax's 8YY network for call origination, rather than to purchase 8YY origination services from others (likely AT&T or Telecommunications Network Services ("TNS")) or to build their own network capacity. Hence, Teliax partners with other LEC's and I-VoIP providers to provide 8YY origination services and shares revenues with them.[4] Since these customers would have the right to charge their own access rates (originating end office switching, common trunk port and DBQ) for originating toll free calls that the serving IXCs want delivered, it would be foolish for the rules to prohibit them from earning revenues simply because they have elected to purchase toll free

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See also, SOMOS Frequently Asked Questions: How are Toll-Free calls completed? "When you dial a Toll-Free Number, you're telling the phone network that special processing is needed. The network queries a Service Control Point (SCP) for carrier, termination, and other routing information. Once the SCP has identified the appropriate routing information, instructions are then sent back to the network to complete the call." https://www.somos.com/help-center; Inteliquent, Toll Free Phone Numbers with Robust Inbound Voice, "If you're looking for a high quality service where Inteliquent is [a] Resporg (*sic*), we offer a multi-CIC service inclusive of the Inteliquent Feature Group D (FGD) network and off-net partners where calls can be load balanced in the event of a network outage. To maximize savings you can serve as the Resporg with our on-net only service, which provides the ability to least cost route (LCR) calls across multiple providers and originate toll free calls from the Inteliquent on-net FGD network." http://www.inteliquent.com/services/toll-free; North American Numbering Counsel ("NANC"), July 15, 2014 White Paper, "Geographic Routing of Toll Free Services," "The originating service provider's switch queries a toll free Service Control Point (SCP) for routing instructions, including the toll free number and the caller's telephone number in the query. … In the developing IP/SIP environment, as opposed to the existing TDM/SS7 PSTN, it will be possible to develop effective location based routing of toll free calls -- but this is a work in progress." http://www.nanc-chair.org/docs/mtg_docs/Jul15_FoN_WP_Geographic_Routing_Toll_Free_Services.pdf.

[3] *See, e.g., Teliax, Inc. d/b/a Teliax Colorado, LLC v. AT&T Corp.*, Civil Action No. 1:15-cv-01472-RBJ (D. Colo.); *O1 Communications, Inc. v. AT&T Corp.*, No. 3:16-cv-01452-VC (N.D. Calif.).

[4] The Commission refused to outlaw revenue sharing agreements for access charges. *See, e.g., Connect America Fund,* Report & Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 17663, at ¶¶ 672 (2011), *subsequent history omitted.*

origination service from another provider instead of building their own networks.[5] The market, rather than FCC rules, should determine whether CLECs or I-VoIP providers decide to buy or build 8YY origination capacity.

Ad Hoc's argument that Teliax's revenues are excessively lucrative is flawed. Teliax's originating end office switching and common trunk port rates are benchmarked to CenturyLink's Colorado[6] interstate rates—presumed by FCC rules to be the lowest in the state. Teliax's DBQ rate was set to be reasonable among DBQ rates charged by other CLECs and also consider Teliax's substantial investments in the SOMOS 8YY database with owner-operator access, IP and TDM network facilities not otherwise needed by Teliax to provide local, long distance and exchange access services, along with custom software to make everything work together seamlessly for its wholesale customers.

Teliax's DBQ rates are $0.0075 and $0.008 for access to vertical features.[7] This rate is average when compared to others (see AT&T chart). They are reasonable rates given Teliax's costs for providing 8YY DBQ service as a facilities-based carrier that has made substantial investments as a SOMOS 8YY database owner-operator, TDM facilities needed to process toll free calls, and substantial investments in custom software necessary to handle toll free calls for its customers. Moreover, as the smallest 8YY SCP owner-operator, Teliax's call volumes are smaller than larger carriers such as AT&T. In comparison, the CenturyLink rate in the State of Colorado is $0.005755, a 24% difference, yet CenturyLink has a market valuation that is several thousand times greater than that of Teliax. Teliax's rates are just and reasonable.[8]

Moreover, Ad Hoc ignores the fact that Teliax's tariff rates are just that—its shelf prices—and that Teliax has reached agreement with many IXCs for a lower composite rate for the wholesale origination of 8YY calls.[9] Whether or not those lower rates are passed along to toll-free subscribers, including Ad Hoc's members, is unknown to Teliax. Again, the market should drive commercial opportunities for IXC's to lower their rates to Ad Hoc's members. In fact, Teliax has successfully helped lower the cost of providing 8YY service in the industry through commercial agreement as well as through innovation. In 2015 Teliax created the Toll-Free Exchange, a service to authoritatively peer calls between Resp Org's, effectively eliminating the IXC from the call flow by providing service providers a platform to exchange traffic directly; no IXC means no tariff, no regulatory fight, no burden on the court. If Ad Hoc claims to advocate for it's clients perhaps it should consider participating in the Toll-Free Exchange. In sum, Ad Hoc's claim that Teliax's rates are excessively lucrative rings hollow.

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[5] *See generally, Connect America Fund*, Report & Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, at ¶¶ 968, *et seq.* (2011), *subsequent history omitted.*

[6] Teliax was incorporated in Colorado in 2004 and has been a CLEC in Colorado since 2011. Its network and switching are physically located there and hence the CO benchmark would apply.

[7] Teliax Tariff F.C.C, No. 1, § 4.1.7, Orig. P. 56.

[8] *See also,* Teliax's Comments in WC Docket No. 16-363, filed Dec. 2, 2016, at 4-7 (demonstrating that, despite claims by AT&T that the costs for providing DBQ service are near zero, AT&T's DBQ rates are comparable to those of other carriers and shooting a hole in Ad Hoc's claim that AT&T's arguments about uneconomic DBQ rates are sound. Ad Hoc Reply Comments, at 2-3.).

[9] Teliax may also share revenues from 8YY traffic priced under commercial agreement with an IXC with Teliax's 8yy partners.

If you have any questions about this filing or need further information, please contact the undersigned. This letter has been filed electronically with the Commission's ECFS platform.

Sincerely,

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